

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SIERRA BOUCHER, LILY ENGEBRECHT,
NATASSIA TUHOVAK, HANNAH WHELAN, and
CASSIDY WOOD,

Plaintiffs,

vs.

**DEFENDANT’S LOCAL RULE 56.1
STATEMENT OF MATERIAL FACTS**

Case No. 1:22-cv-00381-CCR

TRUSTEES OF CANISIUS COLLEGE,

Defendant.

Pursuant to Local Rule 56.1 and the Court’s Individual Practices, defendant Canisius College submits this Statement of Material Facts as to which defendant contends there is no genuine issue to be tried:

	Undisputed Material Facts Related to All Claims	Evidentiary Support
1.	On Monday, January 28, 2019, the Title IX Coordinator at Canisius College, Linda Walleshauser, learned from Professors Susan Margulis and Elizabeth Hogan that a student had approached them to express “concerns” about certain behaviors of Professor Michael Noonan.	Declaration of Linda Walleshauser, dated July 21, 2022 (“Walleshauser Dec.”) at ¶ 3.
2.	This January 28 communication was the first report that Ms. Walleshauser had received reflecting any concern about Professor Noonan, a tenured faculty member who had taught at Canisius for many years.	Walleshauser Dec. at ¶ 5.
3.	Professors Margulis and Hogan did not divulge the student’s name to Ms. Walleshauser, nor did they provide significant details as to the concerns expressed by the student. Rather, they strongly encouraged the student to report her concerns directly to the College’s Title IX Office.	Walleshauser Dec. at ¶ 4.

Plaintiffs' Reports to the Title IX Office (February 11, 2019)		
4.	On Thursday, February 7, 2019, Ms. Walleshauser received an email from Canisius student (and current plaintiff) Natassia Tuhovak, requesting to meet and “discuss some concerns” she was having with “a professor.” Natassia did not disclose Professor Noonan’s name at that time.	Walleshauser Dec. at ¶ 6.
5.	Ms. Walleshauser was out of town and off campus on February 7, but she responded to Natassia within six minutes. They scheduled a meeting for 8 AM on Monday, February 11, 2019, which was the first day Ms. Walleshauser was scheduled to return to campus.	Walleshauser Dec. at ¶ 6.
6.	Natassia emailed Ms. Walleshauser again on Friday, February 8, 2019 stating that “other students” with “some concerns” wished to join their meeting. Ms. Walleshauser stated that they were welcome to join.	Walleshauser Dec. at ¶ 7.
7.	On Monday, February 11, 2019 at 8 AM, Ms. Walleshauser met with eight students (including all five current plaintiffs) to discuss their concerns.	Walleshauser Dec. at ¶ 8.
8.	<p>At this meeting, the students reported a variety of concerns about Professor Noonan’s behavior, including behavior on a recent trip he had led to India, which concluded in January 2019; the reported concerns included:</p> <ul style="list-style-type: none"> • Having female students assist Professor Noonan in stretching his leg; • Professor Noonan’s adjustment of the clothing of female students, such as tucking in bra straps at the shoulder area or assisting with microphone placements, prior to video recordings; • Braiding the hair of certain female students; • Discussing the process of using suppositories or enemas to assist students suffering from digestive difficulties while on the India trip, and offering to assist students with the placement and insertion of these health aids; • Inappropriate discussions of the romantic lives of students, and occasional discussions of his own romantic life; • Commenting about student appearances, and occasionally demeaning students; and 	Walleshauser Dec. at ¶¶ 8-9.

	<ul style="list-style-type: none"> Showing cultural insensitivity to certain members of the local citizenry on the India trip that recently had concluded. 	
The College's Immediate Response		
9.	During the February 11 meeting, Ms. Walleshauser alerted the students to various supportive measures that the College could provide, such as mental health counseling and academic accommodations.	Walleshauser Dec. at ¶ 10.
10.	Ms. Walleshauser also described in general terms the Title IX process at the College, making reference to the Sexual and Gender-Based Misconduct Policy that was posted on the Canisius website.	Walleshauser Dec. at ¶ 10.
11.	Subsequent to the February 11 group meeting, Ms. Walleshauser conducted individual meetings with each student, including all five current plaintiffs. These meetings occurred between Monday, February 11 and Wednesday afternoon, February 13.	Walleshauser Dec. at ¶ 11.
12.	Ms. Walleshauser encouraged the students to provide written statements summarizing their concerns, as well as the concerns of any others. Ms. Walleshauser received these statements on or before Wednesday, February 13.	Walleshauser Dec. at ¶ 12.
13.	On the same day as the group meeting (Monday, February 11), Ms. Walleshauser immediately notified Canisius President John Hurley, Professor Margaret McCarthy (the College's Vice President for Academic Affairs), and Professor Peter Schaber, the Dean of the School of Science about the reports she had received.	Walleshauser Dec. at ¶ 13.
14.	Canisius leadership determined as of Thursday, February 14, that Canisius would place Professor Noonan on involuntary leave, relieve him of all teaching and academic responsibilities, and direct that he neither visit campus unescorted, nor contact any Canisius student in any way, as the investigation proceeded.	Walleshauser Dec. at ¶ 14.
15.	That same day, Ms. Walleshauser, learned that Professor Noonan was traveling out of the area and	Walleshauser Dec. at ¶ 15.

	was not scheduled to return to campus for a week—until February 21, 2019.	
16.	On February 15, Professor Elizabeth Hogan, a Co-Chair of the Biology Department, notified the eight student complainants that the investigation of Professor Noonan would be ongoing.	Walleshauser Dec. at ¶ 16.
Professor Noonan's Suspension		
17.	Professor McCarthy and Ms. Walleshauser met with Professor Noonan on February 21, 2019. At this meeting, they notified him that he was being suspended, effective immediately and for an indefinite period, and that he was prohibited from communicating with students during his suspension.	Walleshauser Dec. at ¶ 17; Exhibit A.
18.	At the February 21 meeting, Professor McCarthy and Ms. Walleshauser also notified Professor Noonan that retaliation was prohibited, and any acts of retaliation would merit disciplinary action, including immediate termination.	Walleshauser Dec. at ¶ 17; Exhibit A.
19.	Professor McCarthy sent a letter to Professor Noonan on February 21 confirming these directives, in writing.	Walleshauser Dec. at Exhibit A.
20.	As of February 21, the College locked Professor Noonan out of his Canisius email access and online accounts; emails sent to his account were forwarded to Professors Margulis and Hogan for appropriate handling.	Walleshauser Dec. at ¶ 18.
21.	Professor Hogan notified the eight students, on February 21, that Professor Noonan was on leave from the College, and that he had been counseled that retaliation was unacceptable.	Walleshauser Dec. at ¶ 19.
22.	Ms. Walleshauser periodically informed the students of the College's progress with respect to the investigation, although because this was a confidential employment-related matter, she did not delve into the details with the students.	Walleshauser Dec. at ¶¶ 26-27.
23.	Ms. Walleshauser e-mailed the eight students on June 11, 2019, informing them that Professor	Walleshauser Dec. at ¶ 30; Exhibit B.

	Noonan had retired as of June 1, 2019, and would not be returning to Canisius.	
24.	Plaintiff Boucher replied to this June 11 e-mail, stating, “Thank you for your help along this process. We really appreciate the work you and Canisius College have put in regarding our concerns.”	Walleshauser Dec. at ¶ 30; Exhibit C.
25.	The College’s Spring 2019 semester ended on May 10, 2019, and at that time the students left campus.	Walleshauser Dec. at ¶ 29, note 3.
26.	At no time after February 14, 2019 did Professor Noonan teach a class, oversee a research project, travel with a student, or have any contact whatsoever with any Canisius student.	Walleshauser Dec. at ¶ 31.
Alternative Academic Accommodations		
27.	Between February 14 and 21, 2019, senior College officials worked with the Departmental leadership in the Biology and Animal Behavior, Ecology, and Conservation Departments (Professor Noonan’s home departments) to identify alternate instructors for his assigned class for the Spring 2019 semester.	Walleshauser Dec. at ¶ 16.
28.	Professor Malini Suchak took over lecturing responsibilities for Professor Noonan’s BIO 316: Social Organization of Mammals course, and Professor Suchak and Professor Margulis shared duties overseeing the lab portion of the class.	Walleshauser Dec. at ¶¶ 20-21.
29.	On February 21, the eight student complainants were instructed to schedule meetings with Professor Hogan or Professor Margulis to discuss the details as to how to proceed with their research projects and documentaries.	Walleshauser Dec. at ¶ 22.
30.	On February 26, 2019, Professor Margulis notified Ms. Walleshauser that she had met individually with each of Professor Noonan’s research students, and they had developed plans to transcribe and video score their various projects, including the “Project Tiger” work related to the January 2019 India trip.	Walleshauser Dec. at ¶ 23.
31.	Professor Christy Hoffman helped students prepare for Ignatian Scholarship Day presentations, and	Walleshauser Dec. at ¶¶ 24-25.

	Departmental faculty divided up responsibility for administrative functions such as academic counseling and graduate school recommendations.	
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Dated: July 22, 2022

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as Trustees of Canisius College*